IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 797 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/03/2005 in WP NO : 4812 OF 2005 on the file of the High Court.)

Between:

Bandari Thirupalu, E-406422, s/o B.Sikhamani
r/o Thummaluru, Pamulapadu (M), Kurnool District.

..... APPELLANT

AND

1 The Depot Manager, APSRTC, Nandikotkur, Kurnool District.
2 The Labour Court, Anantapur rep., by its Presiding Officer.

.....RESPONDENTS

Counsel for the Appellant:MR.S.M.SUBHAN

Counsel for the Respondents 1 and 2 : GP FOR LABOUR

The Court made the following

ORDER: (Per the Hon'ble Smt. Justice T. Meena Kumari)

Challenging the order, dated 04.03.2005, in W.P.No.4812 of 2005, the appellant preferred this writ appeal.

The appellant is the writ petitioner. The grievance of the appellant is that the first respondent, without affording an opportunity of being heard, passed the order of removal, dated 03.02.2000, and the same was confirmed by the appellate authority. Questioning the same, he preferred I.D.No.164 of 2002 before the Industrial Tribunal-cum-Labour Court, Ananthapur. The Tribunal, through its Award, dated 20.08.2004, held that the punishment imposed against the appellant is disproportionate to the gravity of the charge, and accordingly ordered his reinstatement with continuity of service and the wages from 20.07.2002 i.e., from the date of filing the I.D. till the publication of the Award. Aggrieved by the same, the appellant filed the writ petition.

The learned single Judge held that the appellant was removed from service on 03.02.2000 and the statutory appeal submitted by him was disposed of on 22.06.2000, and thereafter he filed the I.D. after a lapse of two years i.e. on 19.07.2002 and it is for the appellant to explain the delay of two years in approaching the Tribunal and that he was not employed during that period and accordingly dismissed the writ petition, through the order under appeal. Hence

the writ appeal.

Heard the learned counsel for the appellant and the learned Government Pleader for labour.

It is submitted by the learned counsel for the appellant that there was no delay on the part of the appellant in filing the I.D. and that during the pendency of W.P.No:2477 of 2005 filed by the Corporation itself, the dismissal of the present writ petition will cause prejudice to the interest of the appellant and therefore, the present writ petition deserves to be allowed.

On the other hand, it is submitted by the learned Government Pleader for Labour that there was an inordinate delay in filing the I.D. before the Tribunal, and the same has not been explained properly and therefore, the order of the tribunal, is just and proper and as such, the order of the learned single Judge, does not call for any interference by this Court.

We have perused the order impugned and the material available on record. There is no dispute as to the filing of the Industrial Dispute by the appellant after a lapse of two years from the date of adjudication of the statutory appeal. No proper explanation has been offered by the appellant to that effect, as rightly observed by the Tribunal as well as the learned Single Judge.

As a matter of fact, the charge in question was framed for the unauthorized absence of the appellant from his duties from 5.6.1998 to 26.6.1998, for which, an enquiry was conducted and the services of the appellant were terminated, which was confirmed in the statutory appeal. In this background of the matter, the Tribunal, having observed that the imposition of punishment of removal is disproportionate to the gravity of the charge, has rightly ordered reinstatement of the appellant from the date of the order of removal, but without back wages, for the reason that he has failed to explain the circumstances under which he preferred the I.D. after a lapse of two years. In this regard, since no proper explanation is forthcoming from the appellant as to the delay in filing the I.D., we have no hesitation to hold that there are no bona fides on the part of the appellant in claiming the back wages. The learned single Judge, having considered all these aspects, has rightly dismissed the writ petition. Hence, we see no merits in this appeal and the same is liable to

be dismissed.

The writ appeal is, therefore, dismissed confirming the order of the learned single Judge. No order as to costs.

(T. MEENA KUMARI.J)

(L. NARASIMHA REDDY.J)

11.04.2005

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To

1) Two CD copies.

2. The Depot Manager, APS RTC, Nandikotkur, Kurnool district.

3. The Govt. Pleader for Labour, High Court of A.P., Hyderabad.